

FILED

United States District Court
Albuquerque, New Mexico



Mitchell R. Elfers
Clerk of Court

UNITED STATES DISTRICT COURT

for the
District of New Mexico

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)
7345 Mackenzie Drive NE, Rio Rancho, NM
)

)
)

)
Case No. 24-MR-333

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A, incorporated by reference

located in the _____ District of New Mexico, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, incorporated by reference.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
26 U.S.C. § 5861(d)	Unlawful possession of a firearm silencer;
21 U.S.C. § 841(a)(1)(B)(1)(C)	Possession with intent to distribute a controlled substance;
21 U.S.C. § 846	Conspiracy to distribute a controlled substance.

The application is based on these facts:

See attached affidavit

- Continued on the attached sheet.
- Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Elia Viramontes
Applicant's signature

Elia Viramontes, Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
telephonically sworn and electronically signed _____ (specify reliable electronic means).

Date: February 20, 2024



Laura N. Fashing
Judge's signature

The Honorable Laura N. Fashing, U.S. Magistrate Judge

Printed name and title

City and state: Albuquerque, NM

AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR A SEARCH WARRANT

I, Elia Viramontes, being duly sworn, di herby depose and state as follows:

INTRODUCTION AND PURPOSE OF THE AFFIDAVIT

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and am recognized as a “federal law enforcement officer” within the meaning of Rule 41 of the Federal Rules of Criminal Procedure. I am submitting this affidavit in support of a warrant to search the premises located at **7345 Mackenzie Drive, Rio Rancho, New Mexico** (hereinafter the “Subject Premises”) for FBI fugitive DAVID CRUZ (hereinafter “CRUZ”) a Bandido Motorcycle Club member. More detailed descriptions and photographs of the Subject Premises and CRUZ have been attached hereto in Attachment A and B.

PURPOSE OF THE AFFIDAVIT

2. This affidavit seeks a search warrant to allow the FBI to enter the Subject Premises to search for CRUZ, who is currently wanted by the FBI Albuquerque Field Office for the following violations:

- a. 26 U.S.C. § 5861(d): Unlawful possession of a firearm silencer;
- b. 21 U.S.C. § 841(a)(1)(B)(1)(C): Possession with intent to distribute a controlled substance;
- c. 21 U.S.C. § 846: Conspiracy to distribute a controlled substance;

3. Should CRUZ not be at the Subject Premises when the warrant is served, I am requesting permission to search the premises for evidence of his current whereabouts.

AFFIANT’S RELEVANT TRAINING AND EXPERIENCE

4. I am a Special Agent with the Federal Bureau of Investigation (FBI) and I have been a sworn law enforcement officer for approximately nine years, serving as a police officer and FBI

special agent. I have been with the FBI since 2021 and I am currently assigned to the Violent Gang Task Force (VGTF), where I primarily investigate gang crimes such as racketeering, drug trafficking, and firearms violations. Prior to my assignment to the VGTF, I was assigned to the FBI Violent Crime Task Force (VCTF), where I primarily investigated violent repeat offenders, bank robberies, kidnappings, and FBI fugitives. I have gained experience through my training at the FBI Academy and my work with more experienced agents on the VGTF and VCTF. I have investigated persons for drug trafficking, firearm offenses, bank robberies, fugitives, and have drafted and executed numerous search warrants and criminal complaints. I am currently the primary case agent in the investigation of the Bandidos Motorcycle Club (BMC).

5. The information set forth in this affidavit was derived from my own investigation and/or communicated to me by other employees of the FBI, other law enforcement agencies, and from records and documents that I, and others, have reviewed. I have not included each and every fact known to me concerning this investigation.

FACTS AND CIRCUMSTANCES ESTABLISHING PROBABLE CAUSE

6. On November 17, 2023, an FBI Special Weapons and Tactics (SWAT) team executed a federal search warrant, 23-MR-2143, on CRUZ's residence at 7345 Mackenzie Drive NE, Rio Rancho, New Mexico. The warrant was issued by the Honorable Karen B. Molzen, in the District of New Mexico. The warrant authorized agents to search for evidence of:

- a. 21 U.S.C. § 841(a)(1): Possession with intent to distribute a controlled substance;
- b. 21 U.S.C. § 846: Conspiracy to distribute a controlled substance;
- c. 18 U.S.C. § 924(C): Possessing a firearm in furtherance of drug trafficking crime.

7. During the search warrant execution at the residence, CRUZ was the sole occupant located inside the location. VGTB agents seized the following items during the search warrant execution at the location:

- a. A total of 25 grams of white powdery substance, field tested positive for cocaine, located in multiple areas of the residence;
- b. 3.6 grams of white pills, suspected Xanax;
- c. Glock 43 9X19 semiautomatic pistol, S/N: AEWE955;
- d. HK VP40 Pistol, S/N: 222-032234;
- e. Black Silencer with no markings;
- f. One cellular telephone, iPhone 13Pro, IMEI:356024614952380; and
- g. Ammunition, multiple calibers.

8. During the search warrant execution agents also located and photographed BMC insignia, specifically a vest with BMC patches on the back and on the front left a patch stating “Funeral Director” a “1%er” patch and “N. Albuquerque” patch, based on my knowledge of the BMC the vest indicates the owner of the vest is a full patched member of the BMC.

9. On February 20, 2024, the Honorable Laura Fashing, U.S. Magistrate Judge for the District of New Mexico, issued an arrest warrant, 24-MJ-243, for David CRUZ.

10. Over the last week FBI agents and Task Force Officers (TFO) checked CRUZ’s primary residence at 7345 Mackenzie Drive NE, Rio Rancho, New Mexico. The location has a realtor sign at front, the sign states the residence is sold. Case agent searched the Subject Premises on public websites “Zillow” and “Redfin.” The results on both websites indicate the Subject Premises is pending a sale. Redfin website has the following message “The seller has accepted an offer, and

the property is now pending or under contact.” Indicating the residence is not sold yet but under contract.

11. On multiple occasions over the last three days, agents observed a red Mazda with License Plate number, 907XCY, registered to CRUZ, parked on the driveway of the location. During the November 17, 2023, search warrant execution agents located the same Mazda vehicle at the residence along with white trailer parked on the driveway of the residence. As of today, February 20, 2024, the white trailer is still parked in the same spot as it was on November 17, 2023, indicating the trailer has not been moved.

12. A query of CRUZ’s name on databases available to law enforcement officers indicates CRUZ’s current address is still listed as the Subject Premises. No new addresses have been reported to the New Mexico Motor Vehicle Division.

13. On February 19, 2024, agents observed a black Nissan pick-up truck, license plate number 834WWN, registered to Albert ARMIJO a.k.a. “Curby” (hereinafter ARMIJO). ARMIJO is a known member of the BMC. During the November 17, 2023, search warrant execution a cellphone belonging to CRUZ was seized. The warrant permitted agents to examine the data contain within the cellphone for evidence of drug trafficking. During the examination of the data agents located conversations with contact “Bandido Curby” along with multiple records of phone calls, indicating CRUZ and ARMIJO are close associates and have contact almost every day.

14. On February 20, 2024, agents observed CRUZ exiting the Subject Premises, he entered the driver seat of the black Nissan pick-up truck, LP: 834WWN, and moved the vehicle forward. CRUZ was wearing a vest with BMC patches. After moving the vehicle forward CRUZ entered the garage of the Subject Premises and drove away in his motorcycle, license plate #S31081, registered to CRUZ, which indicates CRUZ still residing at the Subject Premises.

THE SUBJECT PREMISES

15. The Subject Premises is located at **7345 Mackenzie Drive NE, Rio Rancho, New Mexico**, and may be described as a tan single-story house with a two-car garage attached, brown roof, red front door and white garage door. The numbers 7345 are posted on the curb next to the driveway entrance. may be described as a single-story residence green in color. Color photographs of the location have been included in Attachment A. The search of the Subject Premises shall include the entire residence and all outbuildings, trash cans, storage containers, and vehicles parked at, or in front of, the Subject Premises and having an apparent connection to the Subject Premises will be searched. Connection to the Subject Premises may be established by way of prior law enforcement observation, vehicle registration, subject admission or possession of an ignition key.

CONCLUSION

16. Based on the aforementioned information, I submit that probable cause exists to search the Subject Premises, further described in Attachment A, for CRUZ or evidence of his current whereabouts, further identified and described in Attachment B; pursuant to Rule 41 of the Federal Rules of Criminal Procedure. This affidavit has been reviewed by Assistant United States Attorney Joseph Spindle of the District of New Mexico.

Respectfully submitted,


Elia Viramontes
Special Agent
Federal Bureau of Investigation

Electronically submitted and telephonically sworn to me on February 20, 2024


Honorable Laura Fashing, U.S. Magistrate Judge

Attachment A
PREMISES TO BE SEARCHED

1. The Subject Premises A-1 is located at 7345 Mackenzie Drive NE, Rio Rancho, New Mexico 87144, and may be described as a tan single-story house with a two-car garage attached, brown roof, red front door and white garage door. The numbers 7345 are posted on the curb next to the driveway entrance. The search of the Subject Premises shall include the entire residence and all outbuildings, trash cans, storage containers, and vehicles parked at, or in front of, the Subject premises that have an apparent connection to the Subject Premises. Connection to the vehicles may be established by evidence that anyone residing at the Subject Premises and/or the subject own, operate, and/or have access to any vehicle parked at or in front of the Subject Premises. Evidence includes prior law enforcement observation, vehicle registration, subject admission, or possession of an ignition key.



Surveillance Photo (November 2023)



Surveillance Photo (February 2024)



Surveillance Photo (February 2024)



Google image (May 2022)

Attachment B
PERSON TO BE SEIZED

1. **Person to be seized:** DAVID CRUZ (born in 1974) who currently resides at 7345 Mackenzie Drive NE, Rio Rancho, New Mexico and is depicted in the photograph below:



Driver's License Photo



Social Media Photo

2. **Items to be seized:** Documentary evidence of the whereabouts of DAVID CRUZ, to include records, receipts, addressed envelopes, and any documents relating to the whereabouts of DAVID CRUZ.